

# EXHIBIT “A”

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

IN OFFICE  
CLERK STATE COURT  
GWINNETT COUNTY, GA.

2022 JUL 25 PM 4:31

TIANA P. GARNER, CLERK

CIVIL ACTION  
NUMBER: \_\_\_\_\_

22 C 04099-1

FLOOD BROTHERS RESTORATION LLC

PLAINTIFF

VS.

MICHELLE JIMENEZ

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

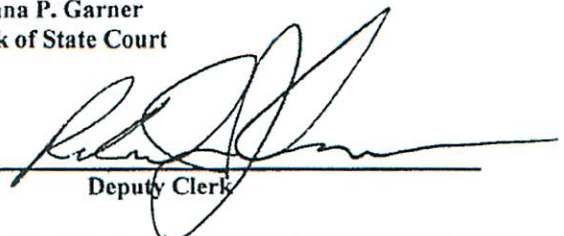
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

S. Carlton Rouse  
Rouse & Company LLC  
PO BOX 392105  
Snellville, GA 30039

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 25 day of July, 2022.

Tiana P. Garner  
Clerk of State Court

By   
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

## General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☒ State Court of WINNETTFILED IN OFFICE  
CLERK OF DISTRICT COURT  
WINNETT COUNTY, GA

For Clerk Use Only

Date Filed 07/25/2022

MM-DD-YYYY

22 C 04099-1

Case Number

2022 JUL 25 PM 4:31

TIANA P. GARNER, CLERK

## Plaintiff(s)

Flood Brothers Restoration LLC

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

## Defendant(s)

Jimenez, Michelle

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Plaintiff's Attorney

Bar Number

Self-Represented ☐

## Check One Case Type in One Box

## General Civil Cases

- ☐ Automobile Tort  
☐ Civil Appeal  
☒ Contract  
☐ Garnishment  
☐ General Tort  
☐ Habeas Corpus  
☐ Injunction/Mandamus/Other Writ  
☐ Landlord/Tenant  
☐ Medical Malpractice Tort  
☐ Product Liability Tort  
☐ Real Property  
☐ Restraining Petition  
☐ Other General Civil

## Domestic Relations Cases

- ☐ Adoption  
☐ Dissolution/Divorce/Separate Maintenance  
☐ Family Violence Petition  
☐ Paternity/Legitimation  
☐ Support - IV-D  
☐ Support - Private (non-IV-D)  
☐ Other Domestic Relations

## Post-Judgment - Check One Case Type

- ☐ Contempt  
☐ Non-payment of child support, medical support, or alimony  
☐ Modification  
☐ Other/Administrative

- ☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

- ☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

- ☐ Is an interpreter needed in this case? If so, provide the language(s) required. \_\_\_\_\_  
 Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.



IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
CLERK STATE COURT  
GWINNETT COUNTY GA  
2022 JUL 25 PM 4:31

FLOOD BROTHERS RESTORATION  
LLC

TIANA P. GARNER, CLERK

Plaintiff,

CIVIL ACTION

v.

CASE NO.

MICHELLE JIMENEZ

Defendants.

22 C 04099-1  
22 C 04099-1  
22 C 04099-1

COMPLAINT AND JURY DEMAND

COMES NOW, Flood Brothers Restoration LLC (hereafter "Plaintiff")  
and files this Complaint against Defendant, Michelle Jimenez as follows:

1.

Upon information and belief, Defendant was at all relevant times, i.e.,  
during the time of performance under contract, a resident of Georgia and  
subject to the jurisdiction and venue of this Court.

2.

On or about September 14, 2018, Michelle Jimenez retained Flood  
Brothers Restoration LLC to perform water mitigation services at her home.

3.

After speaking with Jimenez and discussions with Universal  
Insurance, Flood Brothers provided mitigation services and neither Michelle  
Jimenez nor Universal balked or complained in writing and/or otherwise  
communicated any complaints about the quality or timeliness of its work.

4.

Plaintiff relied upon the direct contact with Michelle Jimenez and communications with Universal Insurance with respect to the fulfillment of the terms of the Parties' contract.

5.

As a direct and proximate result of Jimenez and Universal's request for water mitigation services and the performance by Plaintiff related thereto, Plaintiff submitted a bill/invoice in the amount of \$21,662.40 to Michelle Jimenez and to Universal Insurance.

6.

To date, Jimenez, by and through Universal Insurance, only satisfied a partial amount of the aforementioned invoice in the amount of \$18,000.00.

7.

Plaintiff made multiple, unsuccessful attempts to secure full payment from Jimenez and/or Universal Insurance prior to contacting legal counsel or initiating a civil action to no avail.

8.

Jimenez and/or Universal Insurance have not fully compensated Plaintiff for its work and, as a result, Plaintiff filed this civil action.

9.

Plaintiff initiated an earlier civil action, in the Gwinnett Magistrate



Court, to recover for unpaid amounts owed in 2019.

10.

Plaintiff initiated/transferred its civil action to Gwinnett State Court to recover for unpaid amounts owed in the latter part of 2019.

11.

Throughout the remainder of 2019 and several months of 2020, Plaintiff retained a process server (DGR Legal, Inc., Morris Plains, NJ) to identify and serve Jimenez with a copy of the pending complaint and summons (Docket No. 19C-06796-S4).

12.

Plaintiff served Jimenez by leaving a copy of the complaint and summons with a co-resident, Marcellus Raines on May 8, 2020.

13.

On June 4, 2020, Jimenez filed an affidavit wherein she disclaimed that she received a copy of the complaint and summons.

14.

On Thursday October 1, 2020, additional attempts were made by Rod Troupe, of Finley Consulting & Investigations, Inc., to serve Jimenez at the 2080 Bowline Loop, Woodbridge, VA 22192 address. At that time, Jimenez identified herself through the electronic doorbell camera. Unfortunately, Jimenez refused to answer the door to receive the complaint and summons.

15.

On or about January of 2021, Jimenez lived at 2080 Bowline Loop, Woodbridge, CA 22192. On Saturday, January 9<sup>th</sup>, Tuesday January 12<sup>th</sup>, and Wednesday, January 13<sup>th</sup>, attempts were made to serve Jimenez with a copy of the complaint and summons by Rod Troupe, of Finley Consulting & Investigations, Inc.

16.

At some point during 2020 and 2021, Jimenez either owned, leased, or used two vehicles, i.e. 2017 Volvo S90 and a 2015 Mercedes Benz ML 350.

17.

In order to personally serve Jimenez a copy of the complaint and summons, it incurred legal expense and costs.

COUNT ONE: BREACH OF CONTRACT

18.

Plaintiff incorporates paragraphs 1-17 as if separately stated herein.

19.

Defendant, Michelle Jimenez entered into a contract for water mitigation services from Flood Brothers Restoration and agreed to Plaintiff's terms and conditions with respect to said work.

20.

Universal Insurance spoke directly to Plaintiff and advised Plaintiff as to what was required of it in order to be paid following the completion of the



work to Jimenez's property, e.g., timely work, itemizing a bill for all activity, provide pictures detailing the progress of work, take multiple temperature/moisture readings, etc.

21.

Following the completion of its work, Michelle Jimenez, provided a written assignment of rights and authorized direct payment from Universal Property & Casualty Insurance Co. to Plaintiff.

22.

Plaintiff fully performed its duties under contract with Jimenez and/or with Universal and submitted multiple requests for payment without success prior to initiating this legal action.

23.

Plaintiffs incurred avoidable legal expense associated with Jimenez and Universal's refusal to satisfy their obligations under contract.

24.

Jimenez acknowledged Universal's responsibility to pay Plaintiff for its work in her November 16, 2018 email to Universal. In particular, Jimenez wrote to Skyler Felder directly to ask why Plaintiff was not paid. (See Ex. A. -- Jimenez Email).



COUNT TWO: ATTORNEY FEES

25.

Jimenez and Universal Insurance, on her behalf as her insurer, were stubbornly litigious, intentionally wasteful and abusive by protracting this matter to the point where a formal lawsuit needed to be filed. Neither Jimenez or Universal Insurance have a justifiable or legal basis for failing to pay Plaintiff for prior work performed, as described in paragraphs 1-24. Accordingly, Plaintiff requests damages and such attorney fees pursuant to O.C.G.A. §§ 13-6-11; 9-15-14 as are justified.

WHEREFORE, Plaintiffs demands:

- (a) Judgment for damages in the amount determined by the enlightened conscience of an impartial jury of twelve;
- (b) Reasonable attorney's fees and costs related to this action in the amount of no less than \$70,699.30, which represents the rising expense associated with this matter;
- (c) Other adequate compensation as justice requires.

Respectfully submitted this 25<sup>th</sup> day of July 22.

/s/ S. Carlton Rouse, Esq.  
S. Carlton Rouse, Esq.  
Georgia Bar No. 003583  
Attorney for Plaintiff

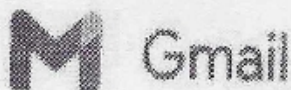
ROUSE & COMPANY, LLC  
3375 Centerville Hwy  
P.O. Box 392105  
Snellville, GA 30039-9997

(678)360-0403(t)

(678)658-9093(f)

s.carlton@rousecolaw.com





S. Carlton Rouse <s.carlton@rousecolaw.com>

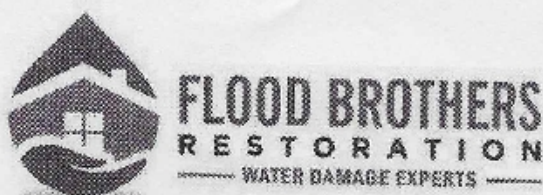
**FW: GA18-0102238 JIMENEZ**

1 message

fbr1randy@gmail.com <fbr1randy@gmail.com>  
To: "S. Carlton Rouse" <s.carlton@rousecolaw.com>

Tue, Sep 3, 2019 at 12:09 PM

Randy Fowler



Office: (770) 985-2748

Cell: (404) 484-4954

www.FloodBrothersRestoration.com



**From:** Michelle Jimenez <michelle.jimenez1516@gmail.com>  
**Sent:** Monday, December 3, 2018 12:24 PM  
**To:** Randall Fowler <fbr1randy@gmail.com>  
**Cc:** cd0205@universalproperty.com; Skylar Felder <sf0205@universalproperty.com>; terry@floodbrothersrestoration.com; becky@floodbrothersrestoration.com; jf1109@universalproperty.com  
**Subject:** Re: GA18-0102238 JIMENEZ

ANY UPDATES???????????????????? I HAVE NOT RECEIVED A CHECK FOR FLOOD BROTHERS.

On Fri, Nov 16, 2018 at 1:37 PM Michelle Jimenez <michelle.jimenez1516@gmail.com> wrote:

Mr. Felder,



Any news on the check for Flood Brothers? Mr. Fowler and his crew where onsite within 30 minutes of my call. Their team worked fast and possibly saved your company thousands of dollars due to the quick response. The contractors have been paid when in reality Flood Brothers should have possibly been paid first. Is there anything that I can do to help your company speed up the process?

Respectfully

Michelle Jimenez

On Tue, Nov 6, 2018 at 9:14 PM <fbr1randy@gmail.com> wrote:

Charles,

When we agreed upon a price on October 2<sup>nd</sup> 2018, this was a discounted rate to get the claim closed. Our original invoice was only charging for 5 days of drying, the adjuster for your company was on site and noted the property still needed equipment going into that 5<sup>th</sup> day if not longer, we had equipment on site for 7 days. On the summary page containing the \$18,000.00 total, you will clearly see the following, "This is a settlement discount, only valid if paid within 10 days." It has now been 35 days from this email. It is my understanding the check has not been approved or sent.

If we do not receive payment, available for immediate deposit, in our office by November 16<sup>th</sup> 2018 the settlement discount will no longer be accepted. At that time, \$21,638.69 will be due within 8 days. We will remove all discounts and bill for the equipment that was in the property for 7 days, with justifiable hygrometer readings, thermal pictures and other supporting documentation.

If payment is not received within 60 days of being billed, legal action will be taken.

Regards,

Randy Fowler

Office: (770) 985-2748

Cell: (404) 484-4954

[www.FloodBrothersRestoration.com](http://www.FloodBrothersRestoration.com)



Virus-free. [www.avast.com](http://www.avast.com)



22-C-04099-S1

12/6/2022 8:01 PM

TIANA P. GARNER, CLERK

## AFFIDAVIT OF SERVICE

Case: 22CO4099-1	Court: State Court of Gwinnett County	County: Gwinnett County, GA	Job: 8040265
Plaintiff / Petitioner: Flood Brothers Restoration LLC		Defendant / Respondent: Michelle Jiminez	
Received by: Silver Star Investigations LLC		For: YBS Process	
To be served upon: Michelle Jiminez			

I, Michael Mantyla, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Michelle Jiminez, 104 Whitney PI NE, Leesburg, VA 20176

Manner of Service: Personal/Individual, Dec 5, 2022, 8:50 pm EST

Documents: Complaint, Summons, Acknowledgment


## Additional Comments:

1) Unsuccessful Attempt: Dec 5, 2022, 8:54 am EST at 104 Whitney PI NE, Leesburg, VA 20176

Rang bell and knocked on door with no response. White dodge pickup PA tag ZVE7846 in driveway.

2) Successful Attempt: Dec 5, 2022, 8:50 pm EST at 104 Whitney PI NE, Leesburg, VA 20176 received by Michelle Jiminez. Age: 40s; Ethnicity: Hispanic; Gender: Female; Weight: 130; Height: 5'5"; Hair: Black; Eyes: Brown;

Recipient answered the door, I asked if she was Michelle Jiminez. Recipient then paused and identified herself as "Sue". Based on her behavior and my experience as a private investigator, I believe she was attempting to evade service. I am familiar with a photograph of recipient from social media and can identify recipient on that basis. I informed recipient that I was delivering service and placed it inside the door within her view prior to her shutting the door to her residence. I observed mail in the mailbox in recipient's name, as well as mail addressed to the parents of Julian E. Jiminez Bennett. I observed two vehicles in the driveway, a white dodge pickup PA tag ZVE7846 and a black Ford SUV, VA tag UTZ4976.

  
Michael Mantyla  
Dec 6, 2022  
Date

Silver Star Investigations LLC  
20908 Pioneer Ridge Terrace  
Ashburn, VA 20147  
(703) 687-5062

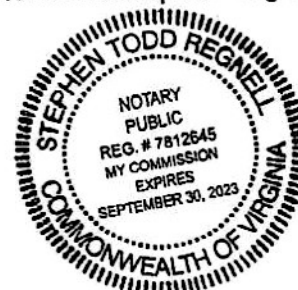
State/Commonwealth of VIRGINIA  
☐ City ☐ County of London  
Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

Dec 6, 2022

Date

Commission Expires Reg. No.



IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,  
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action

File No.: 22-C-04099-S1

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DEFENDANT MICHELLE JIMENEZ' DEFENSES AND ANSWER

---

COMES NOW, Defendant Michelle Jimenez, named Defendant in the above-styled action, and files the following Defenses and Answer to Plaintiff's Complaint and shows the Court as follows:

FIRST DEFENSE

The Complaint fails to set forth a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

For a Second Defense, the Defendant answers the numbered paragraphs of the Complaint as follows:

1.

Defendant denies the allegations contained in Paragraphs 1, 6, 8, 12, 14, 23 and 25 of the Complaint.

2.

Defendant admits the allegations contained in Paragraphs 3, 13, 16 and 24 of the Complaint.



3.

Defendant denies, as pled, the allegations contained in Paragraphs 5 and 22 of the Complaint.

4.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraphs 4, 7, 9, 10, 11, 17, 20 and 21 of the Complaint and, therefore, cannot admit or deny same.

5.

In response to Paragraph 2 of Plaintiff's Complaint, Defendant admits she retained Flood Brothers Restoration LLC to perform water mitigation services at her home. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining averments contained in Paragraph 2 of the Complaint.

6.

In response to Paragraph 15 of Plaintiff's Complaint, Defendant denies that on or about January of 2021, Defendant lived at 2080 Bowline Loop, Woodbridge, CA 22192. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining averments contained in Paragraph 15 of the Complaint.

7.

In response to Paragraph 18 of Plaintiff's Complaint, Defendant repeats and re-alleges its responses to Plaintiff's Complaint, Paragraphs 1-17 as if fully stated herein.

8.

In response to Paragraph 19 of Plaintiff's Complaint, Defendant admits a contract was entered. Defendant denies as pled the remaining allegations of Paragraph 19 of Plaintiff's Complaint.

Any allegation of the Complaint not admitted, denied or otherwise responded to above is hereby denied.

THIRD DEFENSE

Defendant is not liable to Plaintiff because Defendant breached no duty owed to Plaintiff in regard to the occurrence giving rise to this Complaint.

FOURTH DEFENSE

Plaintiff, by the exercise of ordinary care, could have avoided the consequences of any act or failure to act of Defendant.

FIFTH DEFENSE

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third party tortfeasor and/or the acts and failure to act of persons or entities other than Defendant.

SIXTH DEFENSE

The Complaint should be dismissed for lack of jurisdiction over the person of this Defendant and improper venue.

SEVENTH DEFENSE

Plaintiff's Complaint is barred by accord and satisfaction.

EIGHTH DEFENSE

Plaintiff's Complaint is barred by res judicata.

NINTH DEFENSE

Plaintiff's Complaint is barred by collateral estoppel.

TENTH DEFENSE

Plaintiff's Complaint should be dismissed for failure to join a party under O.C.G.A. 9-11-19.



WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed with costs of this action cast against the Plaintiff.

This 4<sup>th</sup> day of January, 2023.

Goodman McGuffey LLP  
Attorneys for Defendant Michelle Jimenez

By: /s/ Paul J. Spann  
ADAM C. JOFFE  
GA State Bar No.: 391920  
ajoffe@GM-LLP.com  
PAUL J. SPANN  
GA State Bar No.: 153214  
PSpann@GM-LLP.com  
3340 Peachtree Road NE, Suite 2100  
Atlanta, GA 30326-1084  
(404) 264-1500 Phone  
(404) 264-1737 Fax

DEFENDANT DEMANDS  
TRIAL BY JURY OF TWELVE

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,  
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action

File No.: 22-C-04099-S1

---

CERTIFICATE OF SERVICE

---

This is to certify that I have this day served all counsel and parties of record with a copy of DEFENDANT MICHELLE JIMENEZ'S DEFENSES AND ANSWER by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) as follows:

S. Carlton Rouse, Esq.  
Rouse & Company, LLC  
P.O. Box 392105  
Snellville, GA 30039-9997  
s.carlton@rousecolaw.com  
*Attorney for Plaintiff*

This 4<sup>th</sup> day of January, 2023.

By: /s/ Paul J. Spann  
PAUL J. SPANN  
GA State Bar No. 153214  
PSpann@GM-LLP.com  
Goodman McGuffey LLP  
3340 Peachtree Road NE, Suite 2100  
Atlanta, GA 30326-1084  
(404) 264-1500 Phone  
(404) 264-1737 Fax



IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,  
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action

File No.: 22-C-04099-S1

DEMAND FOR JURY  
TRIAL BY TWELVE (12)

---

DEFENDANT MICHELLE JIMENEZ'  
DEMAND FOR JURY TRIAL OF TWELVE

---

COMES NOW, Defendant Michelle Jimenez, by and through her attorney of record,  
and demands that the above-captioned case be tried by a jury of twelve, pursuant to  
O.C.G.A. § 15-12-122.

This 4<sup>th</sup> day of January, 2023.

Respectfully submitted,

Goodman McGuffey LLP  
Attorneys for Defendant Michelle Jimenez

By: /s/ Paul J. Spann  
ADAM C. JOFFE  
GA State Bar No. 391920  
ajoffe@GM-LLP.com  
PAUL J. SPANN  
GA State Bar No. 153214  
PSpann@GM-LLP.com  
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IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,  
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action

File No.: 22-C-04099-S1

---

CERTIFICATE OF SERVICE

---

This is to certify that I have this day served all counsel and parties of record with a copy of this Defendant Michelle Jimenez' Demand for Jury Trial of Twelve by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) as follows:

S. Carlton Rouse, Esq.  
Rouse & Company, LLC  
P.O. Box 392105  
Snellville, GA 30039-9997  
s.carlton@rousecolaw.com  
*Attorney for Plaintiff*

This 4<sup>th</sup> day of January, 2022.

/s/ Paul J. Spann

PAUL J. SPANN  
GA State Bar No. 153214  
PSpann@GM-LLP.com  
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3340 Peachtree Road NE, Suite 2100  
Atlanta, GA 30326-1084  
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(404) 264-1737 Fax